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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,146	07/23/2003	John R. Sloop	141901-1010	8269
24504 7590 01/11/2008 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY, S.E. STE 1500 ATLANTA, GA 30339-5994			EXAMINER LEVY, NEIL S	
			ART UNIT 1615	PAPER NUMBER
			MAIL DATE 01/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/625,146	Applicant(s) SLOOP, JOHN R.	
	Examiner NEIL LEVY	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/18/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) 2-8 and 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-8 and 22-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

Applicant's election with traverse of Meat as attractant species, any component configured to dissolve at 0.5-5 pH as trigger, and any agent causing energy release as a subduing agent, in the reply filed on is acknowledged. The traversal is on the ground(s) that Applicant argues election is for search purposes only and the species embodiments are not obvious variants of each other. Further, the groups are not obvious variants of each other. Finally, applicant concludes that the claimed combinations are too complex to support conclusions that they are well known. . This is not found persuasive because The traversal is not persuasive for reasons of record as to the restriction of Group I-VII, and as to species election, the applicant has elected functional rather than specific identifiable material or compound species, and thus, compounds may be found to be equivalents of each other; in which case the species requirement for that species would be withdrawn. The now claimed bullet and explosion would belong to Group II. Claims 22-26 are in accord with this group also.

The requirement is still deemed proper and is therefore made FINAL. Claim 2-8, 22-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on .

Claim1 STANDS rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim1 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear how the (1) attractant is "configured", and how different figures would entice different animals. It is unclear how the (2) trigger is "configured", and how different figures would entice different animals.

(3) it is unclear how the attractant is configured to dissolve, and how a pH is predetermined.(4), it is unclear how the subduing agent is coupled to trigger. , it is unclear how to subdue them.

The is indefinite and does not specifically claim and define the invention, as claim 1 is open to ambiguity and multiple interpretations.

Claims 1stands rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification identifies "limited" subduing agents; metal or percussion or chemical reactants, not further defined or identified, or sponges, stated to result in energy release, but not explained as to how this leads to death. The protective materials are undefined or exemplified, except as mineral oil. However, mineral oil is not supported

as a protective component of the claim 1 apparatus as shown as #108. The specification identifies a desire for species-specific control, by adjusting dose and size of apparatus components, and attractants; but only sugar and meat are mentioned, and it is left to the artisan to determine how much of what components are to be used to subdue a desired species. The specification does not present exemplification of effectiveness to subdue one species, but not harm another.

There is no description of specific elements of an apparatus with any form or amount of attractant, elected as meat, in or on an apparatus with any specific form or material in any particular amount that would dissolve in the elected pH with any specific subduing agent and amount thereof, except for the non-elected exploding components. The metal subduing agents were not presented in any shape, form, or amount, in connection with any specific trigger material and meat or other attractant material, to enable one of ordinary skill to practice the claimed invention.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 stands rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over FAJT 5674518. The rejection of record is in essence maintained; FAJT poisons wild animals, fish, with an attractant

amino acids or meat (column 6, lines 35-37) covered with surfactant and binder of gelatin agar (column 5, lines 1-13) with subduing agent of rotenone release into a predetermined pH environment, acid (column 3, lines 56-59; column 4, lines 19-23). Thus, when the trigger dissolves, the rotenone is released and subdues (kills) the fish. Although the specific language is not used-"predetermined pH", "trigger", "subduing agent", in effect the elements of the instant are met or interpreted as such by the toxic feed pellets of FAJT..

Claim1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shulyer-2957804

Wild animals (column 2, lines 40-46) can be killed with bait, attractant (column 5, lines 21-26) coated over a pH-sensitive trigger (column 4, lines 67-73) so the animal ingests the attractant bait but it is effective to release (Table A) subduing agent only in a high pH, intestinal, environment. Meat odors are attractant (column 12, line 35).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NEIL LEVY
Primary Examiner
Art Unit 1615